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PROSECUTION LAGS IN MARINE SPY CASE

Deadline and Lack of Evidence Cited in Lonetree Inquiry

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WASHINGTON, April 14 — The Marine Corps is having trouble gathering sufficient evidence to prosecute the two Marine guards accused of espionage at the United States embassy in Moscow, according to Administration officials.

The officials said the Reagan Administration was seriously divided over whether to strike a deal with one of the guards to improve its case against the other. There was also concern over whether the military prosecutors might fail to meet a deadline for bringing the guards to trial, a development that could bring the Justice Department into the case, one official said.

More Marines Are Questioned

Amid the prosecution difficulties, the Defense Department announced that six Marine guards at the United States Embassy in Vienna had been recalled in connection with possible security breaches at American diplomatic posts.

Robert Sims, the chief Pentagon spokesman, said four of the marines would be questioned about "possible violations of State Department fraternization regulations." He said two of the marines were under investigation for activities while they were stationed

at the embassy in Prague, the third for activity at the embassy in Budapest and the fourth for activity at the embassy in Sofia, Bulgaria.

The fifth marine is being replaced for violations of "local security regulations" in Vienna, Mr. Sims said. The sixth is to appear as a witness Wednesday in pre-trial hearings for Sgt. Clayton J. Lonetree, the Moscow embassy guard whose arrest in December was the first in the spy scandal.

Mr. Sims declined to name any of the six.

The difficulties with the prosecution of the two Moscow guards, Sergeant Lonetree and Cpl. Arnold Bracy, are said to stem from a lack of evidence to corroborate statements by the two men. This has prompted a sharp debate over whether to grant immunity to any of the Marines, the officials said.

One Administration official said today that the concern over the progress of the prosecution's case had lessened somewhat in recent days, although he said some form of deal with at least one of the guards remained a possibility. "Getting evidence is always a problem in these cases," he said. "But I don't see it as a disaster yet."

Defense Contentions

William M. Kunstler, a lawyer for Sergeant Lonetree, said his client's signed confession is contradictory. In any case, it does not mention the most sensational charge against him, that he helped Soviet agents spend hours roaming through highly sensitive areas of the Moscow embassy last year. The only evidence of the entry of Russian agents came from a statement by Corporal Bracy that he repudiated on March 21, according to Mr. Kunstler.

Sergeant Lonetree has consistently denied permitting Soviet agents to enter the embassy, Mr. Kunstler said.

Compounding the prosecutors' troubles is the defense contention that the Marines may have violated a deadline for bringing Sergeant Lonetree to court-martial within 90 days of his arrest.

That deadline expired on March 24. The same day, however, the Marine prosecutors filed five new charges against Sergeant Lonetree, arguing that the new charges prolonged the deadline for bringing him to trial. But Mr. Kunstler contended that the action was improper because the new charges were based solely on Corporal Bracy's confession, which he had repudiated three days earlier.

"I think their 90 days have run," Mr. Kunstler said.

Defense Motions Planned

Mr. Kunstler said he and other lawyers for Sergeant Lonetree have seen a copy of Corporal Bracy's repudiation.

"Afterwards I am told he took a lie detector test and passed it," Mr. Kunstler said.

Mr. Kunstler said he planned to file motions in the preliminary hearings Wednesday in Quantico, Va., that would require the Marines either to release Sergeant Lonetree or dismiss the case because of the violation of the 90-day rule. Mr. Kunstler also plans to file motions that would get the trial moved to Federal District Court.

"It's too much to expect the Marines to give Lonetree a fair trial when they think he's sullied the Corps," he said.

One Administration official said there had been a heated debate within the Government over granting immunity to Corporal Bracy in exchange for his testimony against Sergeant Lonetree. One official said that in a high-level meeting two weeks ago involving Frank C. Carlucci, the national security adviser, the issue of immunity was raised and rejected, Administration officials said.

Stricter Reviews for Guards

The Marine Corps has adopted new procedures for reviewing applicants to join the embassy guard battalion, and will consider using random polygraphs and imposing closer supervision by officers of the men stationed at embassies, Mr. Sims said today.

Under a new selection procedure, an officer and a senior sergeant would examine each nominee's suitability for guard duty, Mr. Sims said. After the initial review, the battalion's commanders would also examine the candidates to insure their "maturity, reliability and good judgment," Mr. Sims said.

The recommendation for random polygraph tests, which has not yet been acted upon, was contained in a review by the Navy Inspector General for Defense Secretary Caspar W. Weinberger, according to Mr. Sims.

Among the other recommendations of the report, he said, is assigning officers to supervise detachments at more sensitive or vulnerable posts. Training might be improved, he said, and psychological tests might be administered in an effort to select better candidates. But he said the review found the basic process to be adequate.

"Although it found the procedures that are currently used not to be unsound, it did suggest that they could be strengthened in some ways," he said.